

Alaska Department of Law
Additional Significant Court Cases in 2012**

February 13, 2013

Case Name	Case No.	Brief Description	Status
ACCESS AND LAND			
<i>RS 2477 Challenges</i>	N/A	State is preparing to file litigation against the federal government to quiet title to state rights-of-way established under R.S. 2477 in the Fortymile Area around Chicken.	Litigation not yet filed.
<i>REDOIL v. State</i>	SI4216	Plaintiff challenged the Department of Natural Resources' decision to offer tracts for leasing in the Beaufort Sea Lease Sale Area.	At the Alaska Supreme Court after the trial court found in favor of the plaintiff.
BRISTOL BAY			
<i>Nondalton Tribal Council v. Dept. of Natural Resources</i>	3DI0946CI	Plaintiffs challenged specific provisions of the 2005 Bristol Bay Area Land Use Plan.	Case closed; parties settled on remand to trial court.
<i>Nunamta Aulukestai v. Dept. of Natural Resources</i>	SI4560	Plaintiffs challenged constitutionality of regulations and statutes relating to issuance of temporary exploration permits.	At the Alaska Supreme Court after the trial court found in favor of the state.
<i>State v. Lake and Peninsula Borough</i>	3DI1100053CI	The state challenged the borough's enactment of an initiative prohibiting permits for certain large-scale development projects.	At the trial court level.
CHILD SUPPORT			
<i>Central Council of Tlingit and Haida Indian Tribes of Alaska v. State</i>	SI4935	Plaintiffs sued to require the state to enforce the Tlingit Haida tribal court's child support orders.	At the Alaska Supreme Court after the trial court held in favor of plaintiffs.

**Please see the "List of Federal Litigation" and the "Oil, Gas and Mining Section: Major Litigation" for other significant cases.

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CONSUMER PROTECTION			
<i>State v. Onboard Media</i>	1JU1300498CI	State filed a consent decree regarding the port shopping programs the onboard promoters conduct on cruise ships that visit ports in Alaska.	Consent decree filed in trial court.
ENERGY PROJECTS			
<i>U.S. v. Golden Valley Electric (and Alaska Industrial Development and Export Authority)</i>	4:12-cv-00025-RRB	U.S. filed a consent decree relating to the air permit to operate the Healy Clean Coal Project.	Case closed; consent decree filed in the trial court.
<i>State v. Hilcorp</i>	3AN1210858	State filed a consent decree to resolve competitive concerns with Hilcorp Alaska LLC's acquisition of Marathon Oil Company's Cook Inlet assets.	Case closed; consent decree filed in the trial court.
ENVIRONMENTAL			
<i>State v. BP Exploration (Alaska) Inc.</i>	3AN-09-06181	State sued BP for damages caused by the 2006 pipeline leaks and pipeline replacements in the Prudhoe Bay oilfield.	Case closed; three-judge arbitration panel ruled in favor of the state for \$245 million in lost royalties and \$10 million to cover environmental damages.

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PARENTAL NOTIFICATION			
<i>Planned Parenthood v. State</i>	S15010, S15030, S15039	Plaintiff challenged the Parental Notification Law (a ballot initiative) on constitutional grounds.	At the Alaska Supreme Court after the trial court upheld the core requirements of the law.
TRANSPORTATION			
<i>Alaska Marine Highway System v. Robert E. Derecktor, Inc.</i>	IJU10507CI	State sued the manufacturer and retailer of the engines of the state's fast ferries because of accelerated degradation.	At the trial court level.

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List of Federal Litigation For 2008-present**

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ENDANGERED SPECIES ACT			
<i>In Re Polar Bear Endangered Species Act Listing et al.</i>	(DC Cir.) 11-5219	State challenged the listing of the polar bear as threatened under ESA.	At the court of appeals after the trial court upheld the listing.
<i>State of Alaska v. Salazar</i>	3:11-cv-00036-RRB	State challenged the final designation of critical habitat for the polar bear.	At the trial court level, judgment entered in favor of the state.
<i>State of Alaska v. Lubchenko</i>	(9th Cir.) 12-35201	State challenged the National Marine Fisheries Service biological opinion finding that existing fishing regulations jeopardize the Western Distinct Population of Stellar Sea Lions.	At the court of appeals after the trial court upheld the biological opinion.
<i>State of Alaska v. Lubchenko</i>	1:10-cv-00927	State challenged listing of the distinct population segment of beluga whales in Cook Inlet as an endangered species.	Case closed; trial court upheld the listing decision.
<i>Center for Biological Diversity v. Lubchenko</i> (Alaska intervened in support of defendant)	(9th Cir.) 11-15169	State intervened to support the federal government's decision not to list the ribbon seal as endangered or threatened.	At the court of appeals after plaintiff appealed trial court's decision to uphold the federal government's decision. The appeal has been stayed.
<i>Native Village of Chickaloon v. National Marine Fisheries Service</i> (Alaska intervened in support of defendant)	3:12-cv-00102-SLG	State intervened to ask the court to uphold NMFS's decision to allow underwater seismic surveys in Cook Inlet.	At the trial court level.

***This list includes all of the litigation that could be identified at this time.*

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CLEAN AIR ACT			
<i>State of Alaska v. Clinton</i>	3:12-cv-00142-SLG	State challenged Secretary of State Clinton's extension of Emission Control Area to coastal areas of Alaska.	At the trial court level.
<i>State of Michigan (and Alaska) v. EPA</i> (coordinated with other cases, including <i>Chesapeake Climate Action Netw. v. EPA</i>)	(DC Cir.) 12-1196, 12-1194	State challenged EPA's regulations on hazardous air pollutants from coal- and oil-fire electric generation units under the Clean Air Act.	At the court of appeals; this is a direct appeal from an EPA decision.
<i>White Stallion Energy Center LLC v. EPA</i> (Alaska intervened in support of plaintiffs)	(DC Cir.) 12-1272	Plaintiffs are challenging EPA's rule, which sets new Clean Air Act emission standards for power plants.	At the court of appeals; this is a direct appeal from an EPA decision.
<i>Coalition for Responsible Regulation v. EPA</i> (Alaska intervened in support of plaintiff)	(DC Cir.) 09-1322	State intervened to join in the challenge to EPA's Greenhouse Gases Endangerment finding.	Waiting on whether petitions for certiorari will be filed; court of appeals upheld the finding.
ACCESS AND LAND			
<i>State of Alaska v. U.S.</i>	3:12-cv-00114-SLG	State sought to quiet title to submerged land underlying Mosquito Fork of the Fortymile River.	At the trial court level.
<i>State of Alaska v. Bureau of Land Management</i>	IBLA No. 2011-0069	State appealed BLM's decision rejecting the state selection and a material site right-of-way on the Denali Highway.	At the Interior Board of Land Appeals.
<i>State of Alaska v. Bureau of Land Management</i>	IBLA 2010-0136	State appealed BLM's decision denying a recordable disclaimer of interest to the bed of the Stikine River.	Case closed; Interior Board of Land Appeals ruled in favor of the state and remanded the decision back to BLM.
<i>Akiachuk Native Community v. Dept. of Interior</i> (Alaska intervened as defendant)	1:06-cv-969	The State intervened to maintain the prohibition against taking land into trust for Alaska Natives.	At the trial court level.

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ACCESS AND LAND CONT.			
<i>Organized Village of Kake v. U.S. Dept. of Agriculture</i> (Alaska intervened as defendant)	(9th Cir.) 11-35517	State intervened to defend the Tongass roadless rule exemption.	At the court of appeals after the trial court struck down the roadless rule exemption.
<i>State of Alaska v. U.S. Dept. of Agriculture</i>	1:11-cv-01122-RL	State challenged the application of roadless rule in Alaska.	At the trial court level.
<i>State of Wyoming v. U.S. Dept. of Agriculture</i>	(10th Cir.) 08-8061	State filed amicus briefs in support of Wyoming's challenge to the roadless rule.	Case closed; the court of appeals upheld the roadless rule and the U.S. Supreme Court denied the petitions for review.
<i>Tongass Conservation Society v. U.S. Forest Service</i>	(9th Cir.) 10-35232	State intervened to join the USFS in defending the Logjam Timber Sale in the Tongass National Forest.	Case closed; the court of appeals upheld the timber sale.
<i>Sturgeon v. Masica (and Dept. of Interior)</i> (Alaska intervened in support of plaintiff)	3:11-cv-00183-HRH	State intervened to challenge the U.S. Department of Interior's application of National Park Service regulations to state navigable waterways.	At the trial court level.

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WATER			
<i>State of Alaska v. John</i> (consolidated with <i>John v. U.S.</i>)	(9th Cir.) 09-36125	State challenged the U.S. regulatory process used to assert federal reserved water rights.	At the court of appeals after the trial court ruled in favor of the U.S.
<i>Native Village of Point Hope v. U.S. Environmental Protection Agency</i> (Alaska filed amicus brief in support of defendants)	(9th Cir.) 12-35976	State filed amicus brief in support of the EPA's decision to approve ADEC's site-specific criteria for water discharge in Red Dog Creek.	At the court of appeals after the trial court upheld the EPA's decision.
<i>Decker (Oregon State Forester) v. Northwest Environmental Defense Center</i> (Alaska joined in amicus brief in support of Oregon)	(U.S. Sup. Ct.) 11-338	State joined in an amicus brief in support of Oregon to overturn the Ninth Circuit's decision that an NPDES permit was required for run-off from forest maintenance roads.	At the U.S. Supreme Court.
RAIL			
<i>Alaska Survival v. Surface Transportation Board</i> (Alaska intervened in support of defendant)	(9th Cir.) 12-70218	State intervened to support the U.S. Surface Transportation Board's approval of Port MacKenzie rail line extension and National Environmental Policy Act review.	Waiting on whether petitions for certiorari will be filed; court of appeals upheld the board's decision.
MINING			
<i>Earthworks v. U.S. Dept. of Interior</i> (Alaska intervened in support of defendant)	1:09-cv-01972	Plaintiffs challenged the 2008 Mining Claim Rule.	At the trial court level.

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FISHERIES			
<i>Jensen v. Locke</i> (Alaska intervened in support of defendant)	(9th Cir.) 10-35062	Plaintiffs challenged state salmon management authority in Prince William Sound.	At the court of appeals after the trial court upheld the state's management authority.
<i>United Cook Inlet Drift Association v. National Marine Fisheries Service</i> (Alaska will move to intervene in support of defendants)	1:13-cv-82	UCIDA challenged Amendment 12 to the Salmon Fishery Management Plan in Alaska that ensured Alaska retained full authority over salmon management in three historical areas beyond the three-mile limit, as it has since statehood.	At the trial court level.

OUTER CONTINENTAL SHELF			
<i>Native Village of Point Hope v. Salazar</i> (Alaska intervened in support of defendant)	(9th Cir.) 12-35287	Plaintiff challenged the Bureau of Ocean Energy Management's Lease Sale 193 in the Chukchi Sea.	At the court of appeals after the trial court dismissed plaintiff's claims.
<i>REDOIL v. EPA</i> (Alaska filed amicus briefs in support of defendants)	(9th Cir.) 12-70518	Plaintiffs challenged the EPA's grant of air permits for Shell's outer continental shelf activities. State filed amicus briefs in support of Shell and the EPA.	Waiting for U.S. Supreme Court's decision on petition; court of appeals upheld the grant of the air permits.
<i>Alaska Wilderness League v. U.S. EPA</i> (Alaska filed amicus briefs in support of defendants)	(9th Cir.) 12-71506	Plaintiffs challenged the EPA's grant of air permits for the exploratory activities by Shell's rig, the Kulluk. State filed amicus briefs in support of Shell and EPA.	At the court of appeals; this is a direct appeal from an EPA decision.
<i>Native Village of Point Hope v. Salazar: consolidated with Alaska Eskimo Whaling Commission v. Salazar</i> (Alaska intervened in support of defendants)	(9th Cir.) 09-73944, 09-73944, 10-70166	State intervened in support of the Department of Interior's approval of Shell's exploration plans for the Beaufort and Chukchi Seas for 2010. These are multiple appeals on the two exploration plans Shell had filed.	Case closed; the court of appeals upheld the exploration plans.

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OUTER CONTINENTAL SHELF CONT.			
<i>Native Village of Point Hope v. Salazar; Inupiat Community of the Arctic v. Salazar</i> (Alaska intervened in support of defendants)	(9th Cir.) 11-72891, 11-72943, 12-70440, 12-70459	State intervened in support of the Department of Interior's approval of Shell's 2012 exploration plans for the Beaufort and Chukchi Seas. These are multiple appeals on the two exploration plans Shell had filed.	Cases closed; the court of appeals upheld the exploration plans.
VOTING RIGHTS ACT			
<i>State of Alaska v. Holder; Shelby County v. Holder</i>	1:12-cv-1376; (U.S. Sup. Ct.) 12-96	State challenged Section 5 of the Voting Rights Act requiring Alaska to obtain Department of Justice preclearance of any changes to elections. In a similar case in the U.S. Supreme Court, <i>Shelby County</i> , state filed an amicus brief in support of Shelby County.	At the trial court level (Alaska's case); at the U.S. Supreme Court (<i>Shelby County</i>).
AFFORDABLE CARE ACT			
<i>National Federation of Independent Businesses v. Sebelius</i> (Alaska filed amicus briefs in support of plaintiffs)	(U.S. Sup. Ct.) 11-393	State filed amicus briefs in support of overturning the Affordable Care Act.	Case closed; U.S. Supreme Court upheld the majority of the Act.